

**City of Marlborough
Zoning Board of Appeals
Minutes
November 30, 2021**

Location: 42 Devens St.

Zoning Board Case # 1481-2021 (Variance and Special Permit Request)

Applicant: Juan Sosa

Date of Appeal: October 22, 2021

Location of Subject Property: 42 Devens St. shown as Assessor's Map70, Parcel 42. The property is a legal pre-existing, non-conforming lot, and structure. (Variance Request)

Variance Request: To convert a legal pre-existing non-conforming single family into a two family.

(1) Pursuant to G.L. c. 40A § 10 and § 15, to approve a variance exempting the subject parcel from the requirement that the proposed exterior stairs be entirely contained within the structure, or located at the rear of the structure, as specified in Chapter 650-18(2)(d) of the Marlborough Residence B Zoning District.

Meeting date: November 30, 2021

Roll call of members present Ralph Loftin-Chairman, Paul Giunta, Thomas Pope, Thomas Golden and Robert Levine. Also present were

- Susan Brown-Secretary,
- Tin Htway-Building Commissioner
- William Paynton-Building Inspector.
- Juan Sosa, applicant, of 42 Devens St.
- Eileen Brito-Rosa of Rosa Design & Construction, 17 Revere St. Milton, MA 02188.
- Two members of the public who did not speak.

Findings

The Board makes the following findings:

- 42 Devens St. is a legal pre-existing, non-conforming lot, and structure.
- The subject lot is not unique in shape, soil or topography from surrounding lots and homes in the area. Many lots in the area are located on a steep slope to the rear.
- Single- and two-family structures are allowed in Zoning District Residence B (RB).
- The denial of the variance does not impose a "hardship" on the applicant, as defined in the law. Based on the applicant's representative testimony, the Board felt there was no "hardship" in accordance with Chapter 650-56. The applicant's representative stated

the owner desired a two-family home as a source of additional income during his retirement years and to have his family close to him. This does not constitute a hardship.

- The denial of the requested variance does not limit the use of the property as zoned.
- The proposed exterior staircase to the lawful pre-existing non-conforming single-family dwelling will create a new non-conformity. Chapter 650-56 (B-3c)

Decision

Based on the above findings, the Board voted 3-2 NOT to approve a variance exempting the subject parcel from the requirement that the proposed exterior stairs be entirely contained within the structure, or located at the rear of the structure, as specified in Chapter 650-18(2)(d) of the Marlborough Residence B Zoning District.

A motion by Paul Giunta, seconded by Robert Levine to close the public portion of the hearing. A vote of 5-0 to close the public hearing.

A motion by Robert Levine, seconded by Thomas Pope to close the public hearing. A vote of 5-0 to close the public hearing.

A decision and vote for the Special Permit application will be taken at the January 4, 2022 meeting

Extension Permit:

- ZBA Case #1471-2020 0 Locke Dr. – A 6 mos. Extension permit was granted. A vote of 5-0 to grant the extension permit for 6 mos.

Adjournment – With no other business, the public meeting was adjourned by a 5-0 vote.